

## REMARKS

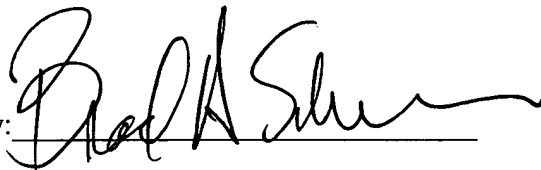
A Restriction Requirement under 35 U.S.C. §121 was mailed to the Applicant on May 4, 2006 asserting that claims 2-4, 15 and 28-103 are directed to multiple inventions and multiple invention species.

In response to the Restriction Requirement, the Applicant hereby elects the Invention Group I including apparatus claims 2-4, 15 and 28-88. Additionally, the Applicant hereby elects Species b.

However, the Applicant traverses the species restriction, and submits that Species b, c and d are all directed to the same species of the invention. Specifically, Figure 4 illustrates bilateral placement of a pair of spacers within a prepared disc space in a deformed state. Figures 2 and 3 illustrate further details regarding the spacers of Figure 4, and Figure 5 illustrates the spacers of Figure 4 in an expanded state within the prepared disc space. Accordingly, Figures 2-5 are all directed to the same species of the invention, and should therefore be examined together. The Applicant further submits that claims 2, 3, 15, 28-31, 35-46, 50, 57-64, 67-76 and 79-88 are all readable on the elected species. The Applicant also submits that at least independent claims 28 and 80 are generic to each of the designated Species a-i.

Further consideration of the present application in view of the foregoing elections is respectfully requested.

Respectfully submitted,

By: 

Brad A. Schepers  
Reg. No. 45,431  
Krieg DeVault LLP  
One Indiana Square, Suite 2800  
Indianapolis, Indiana 46204-2079  
(317) 238-6334 (voice)  
(317) 238-6371 (facsimile)